

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer



MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi [signature]
Chief Financial Officer

DATE: November 17, 2004

SUBJECT: Fiscal Impact Statement: "Omnibus Utility Amendment Act of 2004"

REFERENCE: Bill 15-872 from the Subcommittee Print; October 27, 2004

Conclusion

Funds are not sufficient in the FY 2005 through FY 2008 budget and financial plan. The proposed legislation will result in unbudgeted tax revenue reductions of \$5 million in FY 2005 and \$20 million in the FY 2005 through FY 2008 budget and financial plan. The Public Service Commission (PSC) will be required to remain within their existing staff and resources when implementing the provisions of the proposed legislation.

Background

The proposed legislation would make numerous changes to update and modify Title 34, Public Utilities, of the District of Columbia Official Code.

Commissioners Pay and Benefits

The proposed legislation would increase the salaries of the Public Service Commissioners.

Commissioners Interests

The proposed legislation requires that no person will be eligible for appointment to the Commission if he or she has had a direct or indirect interest in a utility or entity appearing before the Commission during the year preceding the appointment. The current ban is five years. Also, a person will not be eligible for appointment if the person

served as an officer or director of a public utility or affiliate during the preceding five years.

Authority to Regulate Pay Telephones

The proposed legislation requires that pay telephone services be regulated by the PSC. Entities operating pay telephone service in public places without first registering the telephones with the PSC are subject to a fine of \$3,000.

Reliable Energy Trust Fund

The proposed legislation would require the collection of a minimum charge to fund the Reliable Energy Trust Fund. The charge would be \$0.0005 per kilowatt-hour and will commence on January 1, 2005. The universal service, energy efficiency, and renewable source programs funded by this trust fund may be combined with any existing universal service, energy efficiency, or renewable source programs administered by the Commission or the District of Columbia Office of Energy.

Financial Reporting Requirements

The proposed legislation requires that by February 15 of any year, the PSC is required to report to the Mayor and the Council of all the prior year's deposits and disbursements from the respective agency funds by fiscal year reporting period.

Rate Change Notification Requirements

Currently, notice of every rate application or change in condition of service proposed and filed with the PSC shall be given by the utility to each residential or commercial rate payer affected by the proposed rate application or change. The proposed legislation changes the requirements of such notifications so that they shall be available for viewing at a utility's website, by written notice or electronic notice.

Natural Gas Trust Fund

The proposed legislation establishes a non-tax revenue special purpose fund to deposit proceeds from charges to residential customers for a universal service program to assist low-income customers in the District. The fund is called the Natural Gas Trust Fund and will be a non-lapsing, non-reverting proprietary fund. This non-bypassable charge shall be disclosed on residential customers invoices. The proposed legislation requires that the rate may not exceed \$0.016434 cents per therm.

Energy Efficiency Program

The Commission will be required to establish an energy efficiency program to be administered by the District of Columbia Office on Energy. Periodically review and

adjust rates, promote energy efficiency through rate discounts, financial incentives to residential owners, and energy efficiency.

Taxation Initiatives and Penalty Increases

The proposed legislation requires that on April 1, 2005 the sales and use tax rate paid by businesses on their utility bills shall be reduced from 5.75 percent to 3.25 percent. It also reduces from 11 percent to 10 percent the tax on gross receipts of the sales or distribution of public utility services and toll telecommunication services to households. In addition, the proposed legislation increases certain fines and penalties for violations of Commission requirements.

Financial Plan Impact

Funds are not sufficient in the FY 2005 through FY 2008 budget and financial plan because additional resources will be required to implement the proposed legislation. The proposed legislation reduces the sales and use tax paid by businesses from 5.75 percent to 3.25 percent. The table in Figure 1 presents the projected revenue reductions impacting the financial plan.

Figure 1.

Revenue Impact to the Financial Plan				
(\$ in Millions)				
FY 2005	FY 2006	FY 2007	FY 2008	TOTAL
(\$5.0)	(\$5.0)	(\$5.0)	(\$5.0)	(\$20.0)

It should be noted that revenue increases in the District's budget will result in automatic reductions from 11 percent to 10 percent in the gross receipts taxes on public utility and toll telecommunications services for both residential and commercial users effective January 1, 2005.

The PSC, the Peoples Counsel, and the Office on Energy will be required to remain within their existing staff and resources when implementing the provisions of the proposed legislation. Federal and local anti-deficiency laws¹ prohibit District officers and employees from exceeding appropriations in any fiscal year. If funding is available to absorb any additional costs, then the fiscal impact would be zero. For subsequent years, the additional expenditures or revenue reductions must be included in the budget and financial plan.

¹31 USC § 1341 (2000) and D.C. Official Code § 47-355.01 *et sequitor* (2003).